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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,481

08/20/2003

Robert Seseck

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09/15/2004

HEWLETT-PACKARD COMPANY

Intellectual Property Administration

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EXAMINER

VO, ANH T N

ART UNIT

PAPER NUMBER

2861

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/644,481

Applicant(s)

SESEK ET AL.

Examiner

Anh t.n Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7, 10-12, 17, 18 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7, 10-12, 17, 18, 23-25 and 27-36 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION*****Specification***

The specification has been checked to the extent necessary to determine the presence of all possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Double patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 11-12, 17-18 and 32-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of US Pat. Number 6,679,594. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim an imaging media cartridge comprising:

- a first imaging media reservoir chamber;
- a second imaging media reservoir chamber;

- a first removable barrier and a second removable barrier;
- a distribution chamber;
- an imaging media distribution device;
  - a dry toner cartridge;
  - an optical photoconductor; and
  - a first bladder and a second bladder.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***CLAIM REJECTIONS***

#### ***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-12 and 32-33 are rejected under 35 U.S.C. 102 (b) as being anticipated by Tsusaka (US 5,383,009).

Tsusaka discloses in Figures 1-6 a process cartridge comprising:

- a first imaging media reservoir chamber (64);
- a second imaging media reservoir chamber (7);
- a distribution chamber (1C);
- an imaging media distribution device (52) configured to extract imaging media from the distribution chamber (1C);

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- a first removable barrier (67) disposed immediately between the first imaging media reservoir chamber (64) and the distribution chamber (1C);
- a second removable barrier (3) disposed immediately between the distribution chamber (1C) and the second imaging media reservoir chamber (7), and wherein the first removable barrier (67) and the second removable barrier (3) are configured to be separately removable (Figure 6, column 6, lines 62-68);
- wherein the first imaging media reservoir chamber (64) contains a first volume of imaging media, the second imaging media reservoir chamber (7) contains a second volume of imaging media; and the distribution chamber (1C) does not contain imaging media (Figure 2);
- wherein the imaging media comprises a dry toner; and
- wherein the imaging media distribution device (52) comprises an optical photoconductor (Figure 1).

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 10, 17-18, 23-29, and 31 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hosoi et al (US 4,607,938).

Hosoi et al discloses in Figures 7-9 a dry toner cartridge comprising:

- a body (5);
- a first image media reservoir chamber (22) having a first volume;
- a second imaging media reservoir chamber (27) having a second volume;
- a distribution chamber (13) having a distribution device (12);

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- removable barriers comprising strips of tapes (20, 25) disposed between the first image media reservoir (22) and the second imaging media reservoir chamber (27) and between the second image media reservoir chamber (27) and the distribution chamber (13) at passageways;
- a toner distribution device (12) configured to extract toner from the distribution chamber (13);
- a pull tab (31) attached to the strip of tape (25);
- an imaging media passageway defined between the first imaging media reservoir chamber and the second imaging media reservoir chamber, and wherein the removable barrier (25) comprises a rigid member (tape) configured to move from a first position (a first position that contains an element 25) wherein the removable barrier is disposed within the imaging media passageway to a second position (a second position that the element 25 put on a wall side of a chamber 13) wherein the removable barrier is not disposed within the imaging media passageway (26) (Figures 9-10);
- wherein the imaging media cartridge is a dry toner cartridge and/or liquid ink cartridge; and
- wherein the distribution device (3) is an optical photoconductor.

Hosoi et al. disclose the claimed invention except for “the second volume is ten percent or less of the first volume”. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select changes in the dimension of the volume of chamber for the purpose of containing reserved ink, since it is a mechanical design expedient for an engineer depending upon a particular environment and the applications in which the cartridge is to be used.

With regard to claim 17, since the distribution chamber is not clearly defined, it is interpreted as a chamber for containing toner to distribute it to the printing. Thus, the recitation “first toner reservoir chamber”, “second toner reservoir chamber” and “distribution chamber” are anticipated by the chambers 22, 13 and 27, respectively.

With regard to claim 28, the recitation “ink” is anticipated by “toner” in the Hosoi et al because the toner is the ink.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art references (US Pat. 4,615,608; US Pat. 5,028,961; US Pat. 5,249,020) cited in the PTO 892 form show a cartridge which is deemed to be relevant to the present invention. These references should be reviewed.

***Allowable Subject Matter***


Claim 26 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. This claim would be allowable because none of the prior art references of record discloses the cartridge comprising a thumb switch connected to the rigid member in the combination as claimed.

***Response to Applicant's Arguments***

The applicant argues that Hosoi et al does not provide for an image media cartridge where any one chamber is one tenth of the volume of any chamber. The argument is persuasive. However, the second volume of second chamber (36) in Figure 4 of Mizutani (US Pat. 4,615,608) is clearly ten percent or less of the first volume of the first chamber (37).

***CONCLUSION***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo. whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 8:00 A.M. to 6:00 P.M. The fax number of this Group 2861 is (703) 872-9306.

  
ANH T.N. VO  
PRIMARY EXAMINER  
September 9, 2004